

REMARKS

The foregoing amendments are responsive to the Office Action mailed on December 9, 2004. Claims 1-9 are pending in this application. By the foregoing amendments, Claims 1-9 have been amended, the title has been amended, the abstract has been amended, and the specification and drawings have been amended, as suggested by the Examiner. Thus, Claims 1-9 are presented for examination. Furthermore, a petition to extend the prosecution for one month, together with the appropriate fee, accompanies this communication.

Discussion of Amendments to the Specification and Drawings

The Examiner noted several errors and omissions in the specification and drawings. The Applicants have amended the specification and drawings accordingly. Specifically, in Fig 1, numeral 2 has been provided, in Fig 2, numeral 14 has been provided, and in Fig 5, numeral 12 has been provided. Furthermore, US Patent No. 6, 753, 036 has been provided to express the now patented divisional patent application to reflect the current status of the case. No new matter has been added. The amendments are supported in the drawings or elsewhere in the specification. Copies of the amended drawings are attached.

Discussion of the Office Action

In the Office Action of December 9, 2004, the Examiner rejected claims 1-9 under 35 U.S.C. §102(b), and alternatively he rejected claims 1-9 under 35 U.S.C. §103, and claims 2-3, 4-5 and 8-9 have been objected to.

Discussion of Claims 1-9

As set forth above, claims 1-9 were rejected under 35 U.S.C. § 102 and 103. Applicants have amended these claims without prejudice to the subject matter contained therein.

Discussion of Claims 2-3, 5-6, and 8-9

Claims 2-3, 5-6 and 8-9 have been amended to meet the Examiner's objections. Specifically, each of claims 2 and 3 has been rewritten, as suggested by the Examiner, to depend from claim 1. Each of claims 5 and 6 has been rewritten, as suggested by the Examiner, to depend from claim 4. Each of claims 8 and 9 has been rewritten, as suggested by the

Examiner, to depend from claim 7. In view of the amendments to Claims 2-3, 5-6 and 8-9, Applicants respectfully submit that claims 1-9 are now in condition for allowance, and Applicant respectfully requests allowance of claims 1-9.

Discussion of Rejection of Claims 1-9 under 35 U.S.C. §102(b) and under 35 U.S.C. §103

Claims 1-9 stand rejected under 35 U.S.C. §102(b), as being anticipated, and alternatively, under 35 U.S.C. §103, as being obvious over US Patent 5,114,803 issued to Ishihara, herein “Ishihara.”

The Examiner states that Ishihara discusses a fuel cell with a porous electrode where the pore diameters are substantially uniform, and thus anticipates the claimed range. Furthermore, the Examiner states that it would have been obvious to one skilled in the art at the time the invention was made to optimize the uniformity of the pore diameters in order to keep even distribution of air through the electrode and improve the function of the battery.

However, Applicants presently claimed invention is not disclosed nor suggested in Ishihara. Nowhere in Ishihara is it disclosed or suggested that an electrode comprise a conductive material having a plurality of pores wherein said pores are tapered having a first pore opening smaller in size than a second pore opening. Furthermore, Ishihara is silent as to how to enable one of ordinary skill in the art to produce pores that are tapered. Accordingly, Applicants submit that both the 35 USC 102 and 103 rejections should be withdrawn.

Discussion of the Amended Title

The Examiner stated that the originally submitted title of the invention is nondescriptive, and required a new title that is clearly indicative of the invention to which the claims are directed. Accordingly, Applicants have revised the title of the specification to read -- Electrode With Pore Size Distribution --. Applicants have revised the abstract of the disclosure to include in the first sentence -- an electrode having tapered pores --. Applicants respectfully submit that the new title and abstract is fully descriptive of the described and claimed invention.

Summary

Having amended the title and the claims, as discussed above, Applicants respectfully submit that claims 1-9 are in condition for allowance, and Applicants respectfully request allowance of claims 1-9.

In the event that the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, he is respectfully requested to initiate the same with the undersigned at (925) 422-7820.

Respectfully submitted,



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